

information. If that fact must be concealed, the document will be marked as if it were of U.S. origin. Foreign government information shall either retain its original classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(5) Documents that contain information relating to intelligence sources or methods shall include the following marking unless proscribed by the Director of the Central Intelligence; WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED.

(6) Information assigned a level of classification under predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the General Counsel or the Security Officer.

(f) *Limitations on Classification.* (1) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(2) Basic scientific research information not clearly related to the national security may not be classified.

(3) The Chairman or other authorized original classifiers may reclassify information previously declassified and disclosed if it is determined in writing that—

(i) The information requires protection in the interest of national security, and

(ii) The information may reasonably be recovered.

In making such determination, the Chairman or any other authorized original classifier shall consider the following factors: The lapse of time following disclosure; the nature and extent of disclosure; the ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed; the ability to prevent further disclosure; and the ability to retrieve the information vol-

untarily from persons not authorized access to its reclassified state. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office.

(4) Information may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of the Order and these regulations, if such classification meets the requirements of the Order and is accomplished personally and on a document-by-document basis by the Chairman, the Vice Chairman, or the Security Officer.

§ 403.4 Derivative classification.

(a) *Use of derivative classification.* (1) Unlike original classification which is an initial determination, derivative classification is an incorporation, paraphrasing, restatement, or generation in new form of information that is already classified. Derivative classification is the responsibility of those who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide. Original classification authority is not required for derivative classification.

(2) Persons who apply such derivative classification markings shall:

(i) Respect original classification decisions;

(ii) Verify the information's current level of classification so far as practicable before applying the markings; and

(iii) Carry forward to any newly created documents the assigned dates or events for declassification or review. The latest date for declassification should be entered in the case of multiple source documents.

(b) *New Material.* (1) New material that derives its classification from information classified on or after the effective date of the Order, April 2, 1982, shall be marked with the declassification date or event, or the date for review, as assigned to the source information.

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(2) New material that derives its classification under prior orders shall be treated as follows:

(i) If the source material bears a classification date or event 20 years or less from the date or origin, that date or event shall be carried forward on the new material.

(ii) If the source material bears no declassification date or event or is marked for declassification beyond 20 years, the new material shall be marked with a date for review for declassification at 20 years from the date of original classification of the source material.

(iii) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond 30 years, the new material shall be marked for review for declassification at 30 years from the date of original classification of the source materials.

(iv) A copy of the source document or documents should be maintained with the file copy of the new document or documents which have been derivatively classified.

§ 403.5 Declassification and downgrading.

(a) *Authority and policy for declassification and downgrading.* Information that continues to meet the classification requirements prescribed in § 403.3(c) despite the passage of time will continue to be safeguarded. However, information which is properly classified at the time it is developed may not necessarily require protection indefinitely. National security information over which the Bank exercises final classification jurisdiction shall be declassified or downgraded as soon as national security considerations permit. Information shall be declassified or downgraded by:

(1) The official who authorized the original classification, if that official is still serving in the same position, by a successor, or by a supervisory official of either; or

(2) Officials specifically delegated this authority in writing by the Chairman or by the Security Officer. A list of those who may be so delegated shall be maintained by the Security Officer.

(3) If the Director of the Information Security Oversight Office determines that information is unlawfully classified, the Director may require the Export-Import Bank to declassify it. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified until the appeal is decided.

(b) *Declassification Procedure.* Information marked with a specific declassification date or event shall be declassified on that date or upon occurrence of that event. The overall classification markings shall be lined through a statement placed on the cover or first page to indicate the declassification authority, by name and title, and the date of declassification. If practicable, the classification markings on each page shall be cancelled; otherwise, the statement on the cover or first page shall indicate that the declassification applies to the entire document.

(c) *Notification to Holders.* When classified information has been properly marked with specific dates or events for declassification it is not necessary to issue notices of declassification to any holders. However, when declassification action is taken earlier than originally scheduled, or the duration of classification is extended, the authority making such changes shall promptly notify all holders to whom the information was originally transmitted. This notification shall include the marking action to be taken, the authority for the change (name and title), and the effective date of the change. Upon receipt of notification, recipients shall make the proper changes and shall notify holders to whom they have transmitted the classified information.

(d) *Downgrading.* Information designated a particular level of classification may be assigned a lower classification level by the original classifier or by an official authorized to declassify the same information. Prompt notice of such downgrading shall be provided to known holders of the information. Classified information marked for automatic downgrading under previous Executive Orders shall be reviewed to determine that it no longer continues to meet classification requirements despite the passage of time.